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**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**OAKLAND DIVISION**

12 UNITED STATES OF AMERICA,  
13 Plaintiff,  
14  
15 v.  
16 JUAN CARLOS GARCIA-GUTIERREZ  
17 JULIAN PONCE,  
18 ELADIO CASTANEDA-PONCE,  
19 Defendant.

Case No.: CR 09-0866 DLJ  
**STIPULATION AND ORDER**

20 The government is in the process of providing remaining discovery to counsel for all  
21 defendants, consisting of laboratory analysis reports of suspected contraband. Defense  
22 counsel require sufficient time to review the discovery in order to effectively prepare for the  
23 defense of this matter, pursuant to 18 U.S.C. § 3161(h)(7)(B)(iv).

24 Defense counsel and Assistant United States Attorney Wade Rhyne jointly agree and  
25 stipulate that a continuance of this matter is appropriate given the need for effective

1 preparation of counsel and where the next available date where all counsel are available is  
 2 March 5, 2010, such that there is a need for a continuance to such date based on continuity of  
 3 counsel, pursuant to 18 U.S.C. § 3161(h)(7)(B)(iv).

4 THEREFORE, the parties mutually and jointly stipulate that the matter should be  
 5 continued, based on the need for effective preparation and continuity of counsel. The parties  
 6 jointly request that the Court continue the matter until Friday, March 5, 2010, at 9:00 a.m. The  
 7 parties agree that continuing the case until March 5, 2010, is necessary, given the need for  
 8 defense counsel to review and analyze remaining discovery and the need to maintain  
 9 continuity of counsel. The parties also agree that failing to grant a continuance would deny  
 10 counsel for the defense the reasonable time necessary for effective preparation and continuity  
 11 of counsel, taking into account the exercise of due diligence. See 18 U.S.C. §  
 12 3161(h)(7)(B)(iv). Lastly, the parties agree that the ends of justice served by excluding time  
 13 until March 5, 2010, outweigh the best interest of the public and the defendant in a speedy  
 14 trial.

15 SO STIPULATED:

16 Dated: February 9, 2010

17 \_\_\_\_\_/s/\_\_\_\_\_  
 18 JEROME MATTHEWS  
 19 Attorney for Defendant  
 JUAN CARLOS GARCIA-GUTIERREZ

20 Dated: February 9, 2010

21 \_\_\_\_\_/s/\_\_\_\_\_  
 22 ROGER PATTON  
 23 Attorney for Defendant  
 24 JULIAN PONCE  
 25

1 Dated: February 9, 2010

2 \_\_\_\_\_/s/\_\_\_\_\_  
3 EDWIN PRATHER  
4 Attorney for Defendant  
5 ELADIO CASTANEDA-PONCE

6 Dated: February 9, 2010

7 \_\_\_\_\_/s/\_\_\_\_\_  
8 WADE RHYNE  
9 Assistant United States Attorney

10 **ORDER**


11 GOOD CAUSE APPEARING, the Court hereby continues this matter to Friday,  
12 March 5, 2010, at 9:00 a.m. Time has previously been excluded in this case until February 12,  
13 2010, and the Court enters this Order excluding time from February 12, 2010, up to and  
14 including March 5, 2010.

15 Specifically, the parties agree, and the Court finds that such time should be  
16 excluded until March 5, 2010. The Court further finds that failing to grant a continuance until  
17 March 5, 2010, would unreasonably deny the defendants continuity of counsel and also would  
18 deny defense counsel the reasonable time necessary for effective preparation, taking into  
19 account the exercise of due diligence. See 18 U.S.C. § 3161(h)(8)(B)(iv).

20 Finally, the parties agree, and the Court finds that the ends of justice served by  
21 excluding time from February 12, 2010, through March 5, 2010, outweigh the best interests of  
22 the public and the defendants in a speedy trial. *Id.* at § 3161(h)(A).

23 IT IS SO ORDERED.

24 Dated: February 10, 2010

25   
D. LOWELL JENSEN  
U.S. DISTRICT JUDGE